IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODPUR

ORDER

S.B. Criminal Misc. Petition No.1857/2007
(Suresh Chandra & Ors. Vs. State of Raj.)

Date of Order : 28.11.2007

HON'BLE MR. H.R. PANWAR, J.

Mr. Mukesh Patodia for petitioners.

By the instant criminal misc petition under Section 482 Cr.P.C., the petitioners seek quashing of the FIR No.782/2004 dated 25.12.2004 Police Station Kotwali, District Bhilwara for the offences under Sections 420, 467, 468, 471 and 120B IPC and also the order dated 07.04.2006 whereby while sending the matter for further investigation, the Additional Chief Judicial Magistrate, Bhilwara (for short 'the trial court') noticed that the investigation has not been carried out by the investigating officer in regard to the document alleged to have been forged, therefore, the investigating officer was directed to conduct investigation with the said document and get it examine by the handwriting expert and signature thereof.

Heard learned counsel for the petitioners and carefully gone through the memo of the petition and the FIR annexed with the petition.

Learned counsel for the petitioners submits that police after investigation submitted negative final report.

The allegation against the petitioners is that they have forged the will, alleged to have been executed by father of the first informant and on the strength of the forged will, a suit has been filed. A perusal of the FIR, in my view, discloses commission of cognizable offence.

In State of Haryana & ors. Vs. Ch. Bhajan Lal & ors., **A.I.R. 1992 SC 604,** the Hon'ble Supreme Court held that the High Court may in exercise of powers under Art. 226 or S. 482 of Cr.P.C. may interfere in proceedings relating to cognizable offences to prevent abuse of the process of any Court or otherwise to secure the ends of justice. However, power should be exercised sparingly and that too in the rarest of rare cases.

In M.L. Bhatt Vs. M.K. Pandita & ors., **JT 2002 (3) SC 89**, the Hon'ble Supreme Court held that the High Court would be entitled to only examine the allegations made in the

FIR and would not be entitled to appreciate by way of shifting the materials collected in course of investigation including the statement recorded under Section 161 of the Code of Criminal Procedure. But by no means the court would be justified in quashing an FIR by appreciating and shifting the materials collected during the investigation.

In my view, the very crucial issue is about forging of the document and without getting the document examine by the handwriting expert and signature of the executant ie Ghasiram, who executed the will or not, and in these circumstances, the police submitting negative final report, then, the trial court was justified in passing the order impugned.

In this view of the matter, no case for quashing of the FIR is made out.

The criminal misc. petition is, therefore, dismissed.

(H.R. PANWAR), J.

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S. B. Criminal Misc. Stay Petition No.1521/2007
In
S.B. Criminal Misc. Petition No.1857/2007

Date of Order : 28.11.2007

HON'BLE MR. H.R. PANWAR, J.

Mr. Mukesh Patodia for petitioners.

Since the main petition itself has been dismissed, the stay petition also stands dismissed.

(H.R. PANWAR), J.

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